MT LEGISLATIVE HISTORY

Chapter 603 19 81

Bill H 558 S _____ Original bill & hist. ✓ C

H. Committee on St. Admin. S. Committee on Loc. Gov't.

Hearing Date(s)		C	Hearing Date(s)		C
		C		3-24	C
		C		3-24	C
		C	There are no Subcommittee minutes		C
Date Out	2-20	C	Out	3-26	C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Free Conference Committee - there are no minutes

VOLUNTEER FIREFIGHTERS' COMPENSATION FUND FROM THE INSURANCE PREMIUM TAX BEFORE PAYMENT TO THE DISABILITY AND PENSION FUNDS OF THE FIRE DEPARTMENT RELIEF ASSOCIATIONS.
FISCAL NOTE: REQUIRED
INTRODUCED: 1/29
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 1/29
HEARING: 2/5
REPORT: DO PASS, 2/20
2ND READING: 2/21 YEAS: 87; NAYS: 1
3RD READING: 2/24 YEAS: 95; NAYS: 4

TRANSMITTED TO SENATE: 2/24
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 3/2
HEARING: 3/24
REPORT: 3/26, BE CONCURRED IN
2ND READING: 3/27, BE CONCURRED IN
3RD READING: 3/30, YEAS: 49; NAYS: 0

RETURNED TO HOUSE: 3/30
TRANSMITTED TO GOVERNOR: 4/6
ACTION: SIGNED, 4/9
CHAPTER 313

HB 556--MANNING--TO GENERALLY REVISE AND CLARIFY THE PUBLIC HEALTH LAWS RELATING TO TOURIST CAMPGROUNDS AND TRAILER COURTS....
INTRODUCED: 1/29
REFERRED TO COMMITTEE ON HUMAN SERVICES: 1/29
HEARING: 2/6
REPORT: DO NOT PASS, 2/10
REPORT: ADOPTED, 2/12
BILL KILLED: 2/12 YEAS: 76; NAYS: 22

HB 557--D. BROWN, QUILICI, DAILY, ET AL--TO RAISE THE STATE MINIMUM WAGE....
INTRODUCED: 1/29
REFERRED TO COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS: 1/29
HEARING: 2/10
REPORT: DO PASS AS AMENDED, 2/18
2ND READING: 2/21, YEAS: 90; NAYS: 3
3RD READING: 2/24, YEAS: 93; NAYS: 6

TRANSMITTED TO SENATE: 2/24
REFERRED TO COMMITTEE ON LABOR AND EMPLOYMENT: 3/2
HEARING: 3/10
ON MOTION, 3/31, RULES SUSPENDED, PLACED ON 2ND READING
2ND READING: 3/31, AS AMENDED--YEAS: 29; NAYS: 19
ON MOTION, 3/31, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 3/31, YEAS: 36; NAYS: 14

RETURNED TO HOUSE WITH AMENDMENTS: 3/31
2ND READING: 4/8, YEAS: 59; NAYS: 30
3RD READING: 4/9, YEAS: 68; NAYS: 28

TRANSMITTED TO GOVERNOR: 4/14
ACTION: SIGNED, 4/17
CHAPTER 410

HB 558--D. BROWN, KEYSER--TO REVISE THE COMPENSATION PROVISIONS RELATING TO DEPUTY SHERIFFS AND UNDERSHERIFFS....
INTRODUCED: 1/29

REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 1/29
HEARING: 2/20
REPORT: DO PASS AS AMENDED, 2/20
2ND READING: 2/23, YEAS: 91; NAYS: 2
3RD READING: 2/25, YEAS: 93; NAYS: 2

TRANSMITTED TO SENATE: 2/25
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 3/3
HEARING: 3/18
REPORT: 3/26, BE CONCURRED IN, AS AMENDED
2ND READING: 3/28, BE CONCURRED IN
3RD READING: 3/31, YEAS: 49; NAYS: 0

RETURNED TO HOUSE WITH AMENDMENTS: 3/31
2ND READING: 4/8 BE NOT CONCURRED IN MOTION
YEAS: 88; NAYS: 1
REFERRED TO CONFERENCE COMMITTEE: 4/9
ON MOTION, 4/13, CONFERENCE COMMITTEE DISSOLVED AND REFERRED TO
A FREE CONFERENCE COMMITTEE.

FREE CONFERENCE COMMITTEE REPORT NO. 1: 4/21
HOUSE
2ND READING: 4/22, YEAS: 85; NAYS: 3
ON MOTION, 4/22, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/22, YEAS: 90; NAYS: 5

SENATE
2ND READING: 4/22, BE CONCURRED IN
ON MOTION, 4/22, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/22, YEAS: 48; NAYS: 0

TRANSMITTED TO GOVERNOR: 4/27
ACTION: SIGNED, 5/1
CHAPTER 603

HB 559--NEUMAN, KEMMIS, KESSLER, ET AL--TO REPLACE THE 10 PERCENT INCOME TAX SURTAX WITH A GRADUATED PERCENTAGE SURTAX VARYING WITH ADJUSTED GROSS INCOME.
FISCAL NOTE: REQUIRED
INTRODUCED: 1/29
REFERRED TO COMMITTEE ON TAXATION: 1/29
HEARING: 2/3
BILL DIED IN COMMITTEE

HB 560--COMMITTEE ON APPROPRIATIONS--TO APPROPRIATE MONEY TO THE STATE BOARD OF EXAMINERS TO SATISFY VARIOUS COURT JUDGMENTS OR CLAIMS AGAINST THE STATE.
INTRODUCED: 1/29
REFERRED TO COMMITTEE ON APPROPRIATIONS: 1/29
HEARING: 3/13
REPORT: DO PASS AS AMENDED, 3/24
ON MOTION, 3/26, PASSED FOR THE DAY.
2ND READING: 3/27, AS AMENDED, YEAS: 86; NAYS: 3
3RD READING: 3/31, YEAS: 90; NAYS: 6

TRANSMITTED TO SENATE: 3/31
REFERRED TO COMMITTEE ON FINANCE AND CLAIMS: 4/1
HEARING: 4/4
REPORT: 4/4, BE CONCURRED IN
2ND READING: 4/9, BE CONCURRED IN

HOUSE BILL NO. 558

INTRODUCED BY D. BROWN, KEYSER

IN THE HOUSE

January 29, 1981	Introduced and referred to Committee on State Administration.
February 20, 1981	Committee recommend bill do pass as amended. Report adopted.
February 21, 1981	Bill printed and placed on members' desks.
February 23, 1981	Second reading, do pass.
February 24, 1981	Correctly engrossed.
February 25, 1981	Third reading, passed. Ayes, 93; Noes, 2. Transmitted to Senate.

IN THE SENATE

March 3, 1981	Introduced and referred to Committee on Local Government.
March 26, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 28, 1981	Second reading, concurred in.
March 30, 1981	Motion pass consideration.
March 31, 1981	On motion rules suspended. Bill allowed to be transmitted on 71st legislative day. Motion adopted.
	Third reading, concurred in as amended. Ayes, 49; Noes, 0.

IN THE HOUSE

April 1, 1981	Returned from Senate with amendments.
April 8, 1981	Second reading, amendments not concurred in.
	On motion Conference Committee requested.
April 9, 1981	Conference Committee appointed.
April 16, 1981	Conference Committee dissolved.
	On motion new Free Conference Committee requested and appointed.
April 21, 1981	Free Conference Committee reported and dissolved.
April 22, 1981	Second reading, Free Conference Committee report adopted.
	On motion rules suspended and Free Conference Committee report placed on third reading this day.
	Third reading, Free Conference Committee report adopted. Ayes, 90; Noes, 5. Transmitted to Senate.

IN THE SENATE

April 23, 1981	Free Conference Committee report adopted.

IN THE HOUSE

April 23, 1981	Returned from Senate. Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 558

INTRODUCED BY Dave Brown

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE RESTRICTIONS IMPOSED ON THE COMPENSATION OF A DEPUTY SHERIFF OR AN UNDERSHERIFF DO NOT APPLY TO ANY BENEFITS OR ANY PAYMENTS FOR HOURS WORKED OVERTIME; AMENDING SECTION 7-4-2505, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-4-2505, MCA, is amended to read:

"7-4-2505. Amount of compensation for deputies and assistants. (1) ~~Except as provided in subsection (2),~~ Subject to subsections (2) and (3), the boards of county commissioners in the several counties in the state shall have the power to fix the compensation allowed any deputy or assistant of the following officers:

(a) sheriff;

(b) clerk and recorder;

(c) clerk of the district court;

(d) treasurer;

(e) assessor;

(f) county attorney;

(g) auditor.

(2) (a) Except as provided in subsection (2)(b), the salary of ~~no~~ a deputy or an assistant ~~shall~~ may not be more than 90% of the salary of the officer under whom such deputy or assistant is serving.

(b) In fixing the compensation allowed the undersheriff, the board must fix the same at 95% of the salary of the officers under whom such undersheriff is serving. In fixing the compensation allowed the deputy sheriffs, the board must fix the same at 90% of the salary of the officer under whom such deputy sheriff is serving, except in counties of the first, second, or third class, in which the board must fix the same at not less than 75% or more than 90% of the salary of the officer under whom such deputy sheriff is serving.

(c) Where any deputy or assistant is employed for a period of less than 1 year, the compensation of such deputy or assistant shall be for the time so employed, provided the rate of such compensation shall not be in excess of the rates now provided by law for similar deputies and assistants except as provided herein.

(d) Deputy assessors' salaries shall be the same as paid the deputy clerk and recorder.

(3) For purposes of subsection (2)(b), the term "compensation" means the base rate of pay and does not mean any benefits or any payments for hours worked overtime."

-End-

LC 2179/01

INTRODUCED BILL

HB 558

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 558	PROVIDE THAT THE RESTRICTIONS IMPOSED ON THE COMPENSATION OF A DEPUTY SHERIFF OR AN UNDERSHERIFF DO NOT APPLY TO ANY BENEFITS OR ANY PAYMENTS FOR HOURS WORKED OVERTIME...	1/29	D. BROWN	2/20 ~~2/12~~	DO PASS AS AMENDED	2/20
HB 565	PROVIDE PROCEDURES FOR REQUESTING A BUDGET AMENDMENT; PROVIDE FOR ENFORCEMENT AUTH. OF THE ATTORNEY GENERAL & PROVIDE FOR PENALTIES...	1/29	ROTH	2/4/81	back to comm. DO NOT PASS DO PASS AS AMENDED	2/7/81 2/4/81 2/19/81
SB 86	AMENDMENT TO ARTICLE III, SEC. 4 MT. CONST. TO INCREASE THE NUMBER OF SIGNATURES REQUIRED ON AN INITIATIVE..	1/29	GALT	3/4/81	BE NOT CONCURRED IN	3/5/81
HB 573	REDUCE THE MINIMUM EARLY RETIREMENT AGE IN THE TEACHERS RETIREMENT SYSTEM FROM 55 to 50 YEARS AND TO REVISE THE FORMULA FOR CALCULATING THE EARLY RETIREMENT ALLOWANCE	2/2	NORDTVEDT	2/10	DO PASS	2/10/81
HB 580	ESTABLISHING COMPENSATION FOR ELECTED STATE OFFICIALS, SUPREME COURT JUSTICES, DIST. JUDGES, COMMISSIONER OF CAMP. FINANCES & PRACTICES, TAX BO.....	2/2	FEDA	2/6	sub committee DO PASS AS AMENDED	2/6 2/13/81
HB 584	TO ALLOW PARTICIPATION IN THE TEACHERS' RETIREMENT SYSTEM BY PERSONS EMPLOYED AS TEACHERS BY SPECIAL EDUCATION COOPERATIVES.	2/2	ELLISON	2/9	DO PASS	2/18/81

STATE ADMINISTRATION
FEBRUARY 20, 1981
RM 436

The meeting of the House State Administration Committee was called to order at 7:00 a.m. on Friday, February 20, 1981, with Chairman Jerry Feda presiding. Members absent at the start of the meeting were Representatives Azzara, Kennerly, McBride and O'Connell.

EXECUTIVE SESSION

HOUSE BILL 730-hearing 2/19 DO NOT PASS

Representative Winslow made a DO NOT PASS motion. Discussion followed.

Representative Sales said that the important thing to remember is that Senator Brown said there is a bill in the Senate that would put these controls at the local level.

A vote was taken on the motion and carried with 12 YES, 2 NO and 5 members absent for this vote. Representatives Pistoria and Kanduch voted no. Representative Dussault was excused for this vote.

HOUSE BILL 733-hearing 2/19 DO NOT PASS

Representative Mueller moved a DO NOT PASS on HB 733. Discussion followed. Representative Kanduch said that he talked to the sponsor and they wanted to put an amendment in the bill. Representative Spilker said that the whole bill is bad and amending one section would not help.

A vote was taken on the motion and carried with 11 YES, 3 NO, 1 abstention and 4 absent. Representatives Holliday, Pistoria and Kanduch voted no. Representative Dussault abstained.

HOUSE BILL 752-hearing 2/19 DO NOT PASS

Representative Briggs made a DO PASS motion on HB 752. He said that there is no protection for the employer.

Representative Dussault made a substitute motion that HB 752 DO NOT PASS. Discussion followed. She said that from the testimony it was stated that employers win these cases as much or more than the employee.

Representative Briggs said that they still have all the expenses whether they win or lose, and even if the case is dropped there is a lot of expense to the employer.

EXECUTIVE SESSION (cont.)

HOUSE BILL 555-hearing 2/5/81 DO PASS

Representative Mueller made a DO PASS motion on HB 555. A vote was taken and carried unanimously.

.....

At 8:00 a.m. Chairman Feda opened the meeting to a hearing on HB 558. Representative Azzara was absent and Representative Dussault was excused.

HOUSE BILL 558, SPONSOR, Representative Brown, introduced HB 558, which for the purpose of calculating salaries for deputy sheriffs and undersheriffs, defines "compensation" to mean the base rate of pay excluding any benefits or payments for hours worked overtime. Representative Brown said that there has been a problem, "catch 22 situation", because deputy sheriffs and undersheriffs are not allowed to make more than 90 or 95% of the sherrifs salary. This has been a problem concerning overtime. After they reach the 90 or 95% they must work without pay. This bill would simply eliminate the overtime from the rule.

PROPONENTS

JOHN SCULLY, MSPOA, stated that there is a bill in the Senate (SB 375) that is companion bill to HB 558. He requested that the committee amend HB 558 to include the issues in SB 375 because the Senate will not have time to act on SB 375. It is very important that the issues in that bill do not die. Representative Brown also requested that the two bills be combined.

CHUCK O'REILLY, MSPOA, arose and stated support of this bill with the proposed amendment.

CURT BETTY, MSPOA, stated support of the bill.

GARY SCHEIDECKEOR, MSPOA, stated support of HB 558.

OPPONENTS

There were no opponents to HB 558.

Representative Brown closed the hearing on HB 55. He submitted for the record, several letters in support of this legislation. They are attached and are EXHIBITS 4a through 4j of the minutes.

HB 789

PROPONENTS

CLAIR ENGEL, State Law Librarian, stated that this bill is merely enabling legislation. They plan to move the library to the new building before next session. This new building is located about 2 blocks from the Capitol.

OPPONENTS

There were no opponents to HB 789.

QUESTIONS BY THE COMMITTEE:

There were no questions.

Representative Yardley closed the hearing on HB 789.

EXECUTIVE SESSION:

Representative Azzara was absent for this executive session.

HOUSE BILL 789 — DO PASS

Representative Sales moved a DO PASS on HB 789. Question was called and a vote taken. Motion carried unanimously.

Representative Mueller made a motion that HB 789 be placed on the Consent Calendar. Motion carried unanimously.

HOUSE BILL 558 — DO PASS AS AMENDED

Representative Mueller made a motion that HB 558 and SB 375 be consolidated. A vote was taken and carried with 17 YES and 1 NO. Representative Kropp voted no.

Representative Mueller moved a DO PASS AS AMENDED. A vote was taken and carried with 17 YES, 1 NO and 1 absent. Representative Kropp voted no. (see EXHIBIT 6 for amendments)

HOUSE BILL 786 — DO PASS AS AMENDED

Representative O'Connell said that this is taking away the authority of the department heads and she moved a DO NOT PASS.

4-45

BIG HORN COUNTY

EXHIBIT 4a

Sherif's Dept.
P.O. Box 332
Under Sheriff Jerry Williams

HARDIN, MONTANA

Feb. 11, 1981

Curt Petty
15 N. Ewing
Helena, Mt. 59601

RE: Over Time Pay

Dear Sir;

It has probally been brought to your attention, the neglected needs of Law Enforcement in the State of Montana. Over the years the intent of Law Enforcement in Montana has been that of to serve and to protect the public in a most professional and efficent manner. Men and Women from all walks of life take a proud step into the world of Law Enforcement, serving thier communities with pride, putting thier knowledge to work, and thier lives on the line, FOR THE PUBLIC.

However it seems that these Men and Women are sometimes forgotten by the publics eye. These people work hard and sometimes long hours, and in the past these long-overtime hours, are donated to the departments, without any pay. Why do they do it? They do it because they care, YES, they care whether or not that burglar strikes again. They care about thier partner who is alone on the street, DAY OR NIGHT.

These people give thier very best to see that the job is done. How many people in this world would work overtime and get nothing for it but a shout from the street like "THERE GOES THE PIGS"!! I am sure in saying, NOT VERY MANY PEOPLE.....

Law Enforcement needs the support of the GREAT STATE OF MONTANA. We the people of Law Enforcement ask you to stop and consider our request. To upkeep the service, and pride of Law Enforcement. We need a BILL PASSED that says, Thankyou for a job well done. That BILL would be one saying, lets provide onertime pay. For the Men and Women of one of the FINIST groups of people in the World, MONTANA LAW ENFORCEMENT..

Respectfully yours,

Jerry L. Williams

Jerry Williams
Under Sheriff of Big Horn County

EXHIBIT 4b

LEWIS & CLARK COUNTY

SHERIFF'S DEPARTMENT

15 N. Ewing
Helena, Mt. 59601
406-443-1010 Business
406-442-7880 Emergency Only

CHUCK O'REILLY, SHERIFF
DEPUTY JACK SHAMLEY
WOLF CREEK SUB-STATION
235-4333

Re: FACT SHEET PERTAINING TO THE STATE LAW RESTRICTING DEPUTIES TO NINTY PER CENT (90%) OF THE SHERIFFS WAGES.

UNDER STATE STATUTES DEPUTIES IN THE STATE OF MONTANA ARE PROHIBITED TO MAKE MORE THAN NINTY PER CENT OF THE SHERIFFS WAGES. THIS NINTY PER CENT INCLUDES ALL OVER-TIME AND OTHER COMPENSATION. IN THE CALENDER YEAR OF 1980 I EXCEEDED THE NINTY PER CENT. I WAS NOT NOTIFIED THAT I WAS NEARING THE NINTY PER CENT UNTIL THE SECOND WEEK IN DECEMBER, AT WHICH TIME I WAS INFORMED THAT I WAS IN EXCESS OF THE NINTY PER CENT. AT THAT TIME I WAS INFORMED THAT SINCE, UNKNOWN TO ME, I HAD EXCEEDED THE NINTY PER CENT I WOULD BE DOCKED THAT AMOUNT IN THE EXCESS OF THE NINTY PER CENT. THE COUNTY INFORMED ME THAT INSTEAD OF RECEIVING MY NORMAL GROSS CHECK OF $604.21 I WOULD RECEIVE ONLY A GROSS CHECK OF $238.41. IN TAKE HOME PAY I WOULD NORMALLY RECEIVE $369.43. THIS CHECK WOULD AMOUNT TO ONLY $160.57. IN FACT I LOST A NET OF $208.86. THIS LOSS IS AT MY EXPENSE EVEN THOUGH I HAD WORKED THE HOURS UNDER THE ASSUMPTION THAT I WOULD GET PAID FOR THEM. IN FACT I HAD WORKED $365.86 WORTH OF TIME WHICH I COULD NOT LEGALLY BE COMPENSATED FOR.

JACK SHAMLEY
Jack Shamley
DEPUTY SHERIFF
LEWIS AND CLARK COUNTY SHERIFFS OFFICE
WOLF CREEK SUB-STATION

EXHIBIT 4c

CONTINUATION REPORT LEWIS AND CLARK COUNTY SHERIFF'S DEPARTMENT PAGE ____ OF ____

1. OFFENSE/INCIDENT	2. TYPE OF REPORT	3. SCR NO.
	☐ INCIDENT/OFFENSE ☐ CRIME AGAINST PROPERTY ☐ CRIME AGAINST PERSON ☐ OTHER ____	

On June 28-29, 1980 I, (Douglas Todd), was on scheduled days off. These dates were also the dates of the Augusta rodeo in Augusta Mont. In my capasity as deputy Sheriff for Lewis and Clark County I was instructed to work in Augusta during the rodeo. I expressed my concern about working on my days off due to the fact that I had exceeded 90 % of the Sheriff wage. According to state law a Deputy may not earn more than 90% of the Sheriffs wage and benifits in one year. In January of 1980 I was informed that I had exceeded 90% of the Sheriffs wage for that fiscal year and would not be payed for any overtime or holidays until after July 1, 1980. Due to another State law all Deputys are essentially on call 24 hours a day 7 days a week and must report to work at the Sheriff direction regardless of if it is a pay shift or not.
Therefore on June 28, 1980 I work 17 hours straight at the Augusta Rodeo. On June 29, 1980 I worked another 14 hours all on my days off. All time worked in Augusta was for no pay or other compensation.

Douglas R. Todd

☐ NARRATIVE CONTINUED ON REVERSE SIDE

EXHIBIT 4d

CONTINUATION REPORT LEWIS AND CLARK COUNTY SHERIFF'S DEPARTMENT PAGE _____ OF _____

1. OFFENSE/INCIDENT	2. TYPE OF REPORT ☐ INCIDENT/OFFENSE ☐ CRIME AGAINST PROPERTY ☐ CRIME AGAINST PERSON ☐ OTHER _____	3. SCR NO.

On 6-28 29, 1980, I (Michael A. McFerrin) was scheduled for days off. I had been instructed by The Patrol Division Capt. that I would be working The Augusta Rodeo in Augusta, Montana.

At this time (June of 1980) I had exceeded my overtime of 90% of the Sheriff's wages, as my rate of pay is 88%, leaving 2% for compensation as overtime. As I was required to work my days off I worked 18 hours overtime on 6-28-80 and 14.5 hours on 6-29-80 for a total of 32.5 hours overtime which I recieved know compensation for.

To add to the problem further, working my days off meant that I had worked fifteen days in a row without days off.

This is a result of a State law saying that I can not make more than 90% of the sheriff's wages, and I am expected to work without compensation and be available on call twenty four hours a day, seven days a week.

The Augusta Rodeo is only one example of extra events or details that we are required to work and generally do not recieve any compensation for.

Michael H. McFerrin
Deputy Sheriff
Lewis & Clark County

RECEIVED
FEB 6 1981
MONTANA COUNCIL 9
AFSCME AFL-CIO

☐ NARRATIVE CONTINUED ON REVERSE SIDE

EXHIBIT 4e

L. WARNER HARRISON, Sheriff

M. FITCH HONS, Undersheriff

SHERIFF'S OFFICE

DANIELS COUNTY

SCOBEY, MONTANA

59263

Feb. 13, 1981
Scobey, Montana

Deputy Curt Petty
Lewis and Clarke County
15 North Lewis
Helena, Montana, 59601

Dear Sir:

Our overtime worked in the Daniels County Sheriffs Department for both the Sheriff and UnderSheriff run on the average of 40 to 45 hours a month. Some months run higher and some lower.

We will be putting in more hours of overtime in the near future because of greatly anticipated oil drilling and seismographic exploration in Daniels County.

We are the only full time sworn officers in the Dept.

These overtime hours are all worked without compensation and needless to say, is a strain on the individual officers and their families.

Yours truly

L. Warner Harrison

L. Warner Harrison, Sheriff
M. Fitch Hons, UnderSheriff
Daniels County, Scobey, MOnt.

M. Fitch Hons

EXHIBIT 4f

To whom it May Concern: Re: Ninety Per Cent

During the Calender year of 1980 my wages including over time and all other compensation exceeded Ninety Percent of the Sheriff's salry by about $365.00. Instead of Recieving my normal pay roll check of $545.00 gross wages I was paid $180.00 of which I had a Net wage of $140.00. I was not informed that I was near or over the Ninety Per Cent Level until about two days after the pay period ended, and was informed that I could not be paid for hours worked during that pay period that exceeded the Ninty Per Cent Level.

Deputy Sheriff L.C.S.O.
David R. Zarske

EXHIBIT 4g

February 11, 1981

To Whom it may concern:

I am a Deputy Sheriff of Sheridan County. For a three week period, I have put in over 161 hours of which only 120 are eligible for payment. We work holidays, and are on twenty-four hour call every day without compensation.

I don't feel it is fair that we are required to enforce the laws when the same laws don't protect us. And in reference to this letter, you may contact any law enforcement personnel of any law enforcement agency, and I believe that they will agree with me.

Sincerely,

Dennis Paulbeck
Deputy Sheriff of Sheridan County

DP/mak

EXHIBIT 4h

PHONE
(406) 654-2350

Box 909
Malta, Montana

Office of
Mike Camp
Sheriff of Phillips County
Malta, Montana 59538

February 11, 1981

In the month of March, 1980, I worked 37 hours overtime without receiving compesation of any kind.

Eugene Peigneux

Eugene Peigneux, Deputy
Phillips County
Malta, Montana

EXHIBIT 4i

ROBERT A. JENSEN
SHERIFF
Phone 485-3445

SHERIFF'S OFFICE

McCone County, Montana
Phone 485-3405
CIRCLE, MONTANA 59215

JACK LIMESAND
UNDER SHERIFF
Phone 485-2177

February 13, 1981

Curt Petty
Lewis and Clark Sheriff's Office
Helena, Montana 59601

Dear Mr. Petty:

In reference to over-time pay for law-enforcement personnel, I wish to express my personal feelings.

Most emergency work comes immediately, and those people working must work extra hours. There is no other trained personnel to handle most situations, except the people in the department. Due to shortage of manpower and the fact that most emergency situations may well extend over the normal person's work day, personnel cannot always be compensated for time off.

Even if additional help was available, the situation may not warrant time to neither get them nor time necessary to employ them for the situation at hand. In our work of law-enforcement, reliable, intelligent persons are a MUST!

Most emergencies occur on week-ends, holidays, and night hours, when a small department is not able to be fully covered and personnel must be called back. It is highly unlikely that a person who works a normal 8-hour day would take those extra hours without compensation.

All other emergency or essential life services such as telephone, electricity, ambulance, and Hospital personnel are compensated for their overtime.

It only seems logical that an agency with the prime purpose of protection of life and property should be entitled to compensation for their extra hours.

Sincerely,

Robert A. Jensen

Robert A. Jensen
McCone County Sheriff
Circle, Montana

EXHIBIT 4j

James R Cashell
Deputy Sheriff
Gallatin County Sheriff's Department
Bozeman, Montana 59715

TO WHOM IT MAY CONCERN:

This letter is written in support of Senate Bill 375, and in particular the provision in SB 375 concerning overtime.

In the private sector overtime is mandated by statute to be paid for any hours or portions thereof worked over 40 hours. This is paid at time and a half. No such provision exists in the pay statutes applicable to Deputy Sheriff's.

As a night shift Deputy Sheriff I worked an average of 10 hours a week overtime for which I was not compensated. This time was considered as donated to the County. This did not include Court appearances and Hearings(most of which seem to be scheduled for the Deputies regular day off).

Over a period of a year this amounts to 12 weeks time which is donated to the County. This is time taken away from the Deputies family without compensation to either the Deputy or his family.

I would like to once again voice my support for SB 375 as a step towards upgrading the position of Deputy Sheriff to a position of equal standing with other professional Law Enforcement and Investigative positions.

Yours,

James R. Cashell

James R. Cashell

VISITORS' REGISTER

HOUSE STATE ADMINISTRATION COMMITTEE

BILL HB 558 Date 2/20

SPONSOR BROWN

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOS
Chuck Kitty	Helena	MSPOA	X	
John Scully	Boz.	MSPOA	X	
Bill Dougherty	Boz.	Gallatin Co Sheriff	X	
Jay Scheidecker	Boz	Gallatin Co Sheriff	X	
Chuck O'Reilly	Helena	MSPOA	X	
L.J. Hagerman	Helena	AFSCME	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

3. Page 1, line 14.
Following: "to"
Strike: "subsections"
Insert: "subsection"
Following: "(2)"
Strike: "and (3)"

4. Page 1, line 18.
Strike: line 18 in its entirety
Reletter: subsequent subsections

5. Page 1, line 25.
Following: "(2)(a)"
Strike: remainder of line 25

6. Page 2, line 1.
Following: line 25 on page 1
Insert: "The"
Following: "assistant"
Insert: "listed in subsection (1)"

7. Page 2, lines 4 through 13.
Strike: subsection (b) in its entirety
Reletter: subsequent subsections

8. Page 2, lines 22 through 24.
Strike: subsection (3) in its entirety

9. Page 2.
Following: line 25
Insert: "NEW SECTION. Section 2. Compensation of undersheriff and deputy sheriff. (1) The sheriff shall fix the compensation of the undersheriff at 95% of the salary of that sheriff.

(2) (a) The sheriff shall fix the compensation of the deputy sheriff based upon a percentate of the salary of that sheriff according to the following schedule:

In counties with population of:

Below 15,000	75% to 90%
15,000 to 29,999	70% to 90%
30,000 to 65,999	65% to 90%
66,000 to 99,999	60% to 90%
100,000 and over	55% to 90%

(b) The sheriff shall adjust the compensation of the deputy sheriff within the range prescribed in subsection (a) according to a rank structure in the department.

(3) For purposes of this section, the term "compensation" means the base rate of pay and does not mean longevity payments or payments for hours worked overtime.

(continued)

NEW SECTION. Section 3. Option to establish workperiod in lieu of workweek. (1) A sheriff's department may establish a workperiod other than the workweek provided in 39-3-405 for determining when an employee must be paid overtime.

(2) The aggregate of all workperiods in a year, when experssed in hours, may not exceed 2,080 hours.

NEW SECTION. Section 4. Compensation for hours worked overtime. Any undersheriff or deputy sheriff who works in excess of his regularly scheduled workperiod must be compensated for the hours worked in excess of the workperiod at a rate of not less than 1 1/2/times the hourly rate at which he is employed.

NEW SECTION. Section 5. Longevity payments. Beginning on the date of his first anniversary of employment with the department and adjusted annually, a deputy sheriff or undersheriff is entitled to receive a longevity payment amounting to 1% of his annual salary for each year of service with the department. This payment shall be made in equal monthly installments.

Section 6. Section 39-3-406, MCA, is amended to read:"

All subsections of 39-3-406 are unchanged except (2)(k) and (2) (1); subsection (2)(m) is new:

"(k) an employee who is employed with his spouse by a nonprofit educational institution to serve as the parents of children who are orphans or one of whose natural parents is deceased or who are enrolled in such institution and reside in residential facilities of the institution so long as the children are in residence at the institution and so long as such employee and his sponse redide in such facilities and receive, without cost, board and lodging from the institution and are together compensated, on a cash basis, at an annual rate of not less than $10,000; or

(l) an employee employed in planting or tending trees; cruising surveying, or felling timber; or transporting logs or other forestry products to a mill, processing plant, railroad, or other transportation terminal if the number of employees employed by his employer in such forestry or lum lumbering operations does not exceed eight; or

(continued)

Committee Vote

(m) an employee of a sheriff's department who is working under an established workperiod in lieu of a workweek pursuant to [section 3].

NEW SECTION. Section 7. Construction in event of conflict. If there is a conflict between sections 2 through 5 and any other law, sections 2 through 5 govern with respect to undersheriffs and deputy sheriffs."

DO PASS AS AMENDED

G. C. "JERRY" FELA Chairman.

STATE PUB. CO.
Helena, Mont.

24

47TH LEGISLATIVE SESSION

COMMITTEE ON LOCAL GOVERNMENT

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO NOT PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
473	03/02/81	03/17/81	03/17/81				03/17/81		
479	02/12/81	03/07/81	03/17/81					03/17/81	
498	02/20/81	03/12/81	03/17/81					03/17/81	
507	02/18/81	03/12/81	03/24/81					03/24/81	
555	03/03/81	03/24/81	03/24/81				03/24/81		
558	03/03/81	03/18/81	03/26/81					03/26/81	
562	02/21/81	03/12/81	03/17/81					03/17/81	
575	02/18/81	03/14/81	03/26/81						03/26/81
594	03/03/81	03/12/81	03/26/81						03/26/81
624	03/03/81	03/17/81	03/24/81					03/24/81	
643	02/18/81	03/14/81	03/17/81				03/17/81		
661	02/19/81	03/14/81	03/17/81				03/17/81		
693	03/03/81	03/12/81	03/17/81				03/17/81		
704	03/03/81	03/12/81	03/17/81					03/17/81	
712	03/03/81	03/17/81	03/17/81				03/17/81		
715	03/03/81	03/19/81	03/24/81						03/24/81

(Use Separate Sheet for Senate, House Bills, and Resolutions)

HOUSE BILL NO. 558

INTRODUCED BY D. BROWN, KEYSER

A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~PROVIDE--THAT--THE RESTRICTIONS--IMPOSED-ON~~ REVISE THE COMPENSATION ~~OF-A-DEPUTY SHERIFF-OR-AN-UNDERSHERIFF-DO-NOT-APPLY-TO-ANY--BENEFITS--OR ANY--PAYMENTS--FOR-HOURS-WORKED-OVERTIME~~ PROVISIONS RELATING TO DEPUTY SHERIFFS AND UNDERSHERIFFS; AMENDING ~~SECTION~~ SECTIONS 7-4-2505 AND 39-3-406, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-4-2505, MCA, is amended to read:

"7-4-2505. Amount of compensation for deputies and assistants. (1) ~~Except--as--provided--in--subsection--(2),~~ Subject to ~~subsections~~ SUBSECTION (2) ~~and--(3),~~ the boards of county commissioners in the several counties in the state shall have the power to fix the compensation allowed any deputy or assistant of the following officers:

~~(a)--sheriff;~~

~~(b)~~(A) clerk and recorder;

~~(c)~~(B) clerk of the district court;

~~(d)~~(C) treasurer;

~~(e)~~(D) assessor;

~~(f)~~(E) county attorney;

~~(g)~~(F) auditor.

~~(2) (a) Except-as-provided-in-subsection--(2)(b),--the~~ THE salary of ~~no~~ a deputy or an assistant LISTED IN SUBSECTION (1) ~~shall~~ may not be more than 90% of the salary of the officer under whom such deputy or assistant is serving.

~~(b)--In---fixing---the---compensation----allowed----the undersheriff,--the--board--must--fix--the-same-at-95%-of-the salary-of-the--officers--under--whom--such--undersheriff--is serving.--In--fixing--the--compensation--allowed--the-deputy sheriffs,-the-board-must-fix-the-same-at-90%-of--the--salary of--the--officer--under-whom-such-deputy-sheriff-is-serving, except-in-counties-of-the-first,-second,-or-third-class,--in which--the--board--must-fix-the-same-at-not-less-than-75%-or more-than-90%-of-the-salary-of-the-officer-under--whom--such deputy-sheriff-is-serving.~~

~~(c)~~(B) Where any deputy or assistant is employed for a period of less than 1 year, the compensation of such deputy or assistant shall be for the time so employed, provided the rate of such compensation shall not be in excess of the rates now provided by law for similar deputies and assistants except as provided herein.

~~(d)~~(C) Deputy assessors' salaries shall be the same as paid the deputy clerk and recorder.

~~(3)--For--purposes--of--subsection--(2)(b),--the---term "compensation"--means-the-base-rate-of-pay-and-does-not-mean~~

THIRD READING

~~any benefits or any payments for hours worked overtime.~~"

NEW SECTION. SECTION 2. COMPENSATION OF UNDERSHERIFF AND DEPUTY SHERIFF. (1) THE SHERIFF SHALL FIX THE COMPENSATION OF THE UNDERSHERIFF AT 95% OF THE SALARY OF THAT SHERIFF.

(2) (A) THE SHERIFF SHALL FIX THE COMPENSATION OF THE DEPUTY SHERIFF BASED UPON A PERCENTAGE OF THE SALARY OF THAT SHERIFF ACCORDING TO THE FOLLOWING SCHEDULE:

IN COUNTIES WITH POPULATION OF:

BELOW 15,000 ..... 75% TO 85%

15,000 TO 29,999 ..... 70% TO 80%

30,000 TO 65,999 ..... 65% TO 90%

66,000 TO 99,999 ..... 80% TO 90%

100,000 AND OVER ..... 95% TO 99%

(B) THE SHERIFF SHALL ADJUST THE COMPENSATION OF THE DEPUTY SHERIFF WITHIN THE RANGE PRESCRIBED IN SUBSECTION (A) ACCORDING TO A RANK STRUCTURE IN THE DEPARTMENT.

(3) FOR PURPOSES OF THIS SECTION, THE TERM "COMPENSATION" MEANS THE BASE RATE OF PAY AND DOES NOT MEAN LONGEVITY PAYMENTS OR PAYMENTS FOR HOURS WORKED OVERTIME.

NEW SECTION. SECTION 3. OPTION TO ESTABLISH WORKPERIOD IN LIEU OF WORKWEEK. (1) A SHERIFF'S DEPARTMENT MAY ESTABLISH A WORKPERIOD OTHER THAN THE WORKWEEK PROVIDED IN 39-3-405 FOR DETERMINING WHEN AN EMPLOYEE MUST BE PAID OVERTIME.

(2) THE AGGREGATE OF ALL WORKPERIODS IN A YEAR, WHEN EXPRESSED IN HOURS, MAY NOT EXCEED 2,080 HOURS.

NEW SECTION. SECTION 4. COMPENSATION FOR HOURS WORKED OVERTIME. ANY UNDERSHERIFF OR DEPUTY SHERIFF WHO WORKS IN EXCESS OF HIS REGULARLY SCHEDULED WORKPERIOD MUST BE COMPENSATED FOR THE HOURS WORKED IN EXCESS OF THE WORKPERIOD AT A RATE OF NOT LESS THAN 1 1/2 TIMES THE HOURLY RATE AT WHICH HE IS EMPLOYED.

NEW SECTION. SECTION 5. LONGEVITY PAYMENTS. BEGINNING ON THE DATE OF HIS FIRST ANNIVERSARY OF EMPLOYMENT WITH THE DEPARTMENT AND ADJUSTED ANNUALLY, A DEPUTY SHERIFF OR UNDERSHERIFF IS ENTITLED TO RECEIVE A LONGEVITY PAYMENT AMOUNTING TO 1% OF HIS ANNUAL SALARY FOR EACH YEAR OF SERVICE WITH THE DEPARTMENT. THIS PAYMENT SHALL BE MADE IN EQUAL MONTHLY INSTALLMENTS.

SECTION 6. SECTION 39-3-406, MCA, IS AMENDED TO READ:

"39-3-406. Exclusions. (1) The provisions of 39-3-404 and 39-3-405 shall not apply with respect to:

(a) students participating in a distributive education program established under the auspices of an accredited educational agency;

(b) persons employed in private homes whose duties consist of menial chores such as baby sitting, mowing lawns, cleaning sidewalks;

(c) persons employed directly by the head of a

household to care for children dependent upon the head of the household;

(d) immediate members of the family of an employer or persons dependent upon an employer for half or more of their support in the customary sense of being a dependent;

(e) any persons not regular employees thereof who voluntarily offer their services to a nonprofit organization on a fully or partially reimbursed basis;

(f) handicapped workers engaged in work which is incidental to training or evaluation programs or whose earning capacity is so severely impaired that they are unable to engage in competitive employment;

(g) apprentices or learners, who may be exempted by the commissioner for a period not to exceed 30 days of their employment;

(h) learners under the age of 18 who are employed as farm workers, provided that such exclusion shall not exceed a period of 180 days from their initial date of employment and further provided that during this exclusion period wages paid such learners may not be less than 50% of the minimum wage rate established in this part;

(i) retired or semiretired persons performing part-time incidental work as a condition of their residence on a farm or ranch;

(j) any individual employed in a bona fide executive,

administrative, or professional capacity as these terms are defined and delimited by regulations of the commissioner;

(k) any individual employed by the United States of America.

(2) The provisions of 39-3-405 do not apply to:

(a) an employee with respect to whom the United States Secretary of Transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of 49 U.S.C. 304;

(b) an employee of an employer subject to the provisions of part I of the Interstate Commerce Act;

(c) an individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state;

(d) a salesman, partsman, or mechanic paid on a commission or contract basis and primarily engaged in selling or servicing automobiles, trucks, mobile homes, recreational vehicles, or farm implements if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles or implements to ultimate purchasers;

(e) a salesman primarily engaged in selling trailers, boats, or aircraft if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling trailers, boats, or aircraft to ultimate purchasers;

(f) an employee employed as a driver or driver's helper making local deliveries who is compensated for such employment on the basis of trip rates, or other delivery payment plan, if the commissioner finds that such plan has the general purpose and effect of reducing hours worked by such employees to or below the maximum workweek applicable to them under 39-3-405;

(g) an employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways not owned or operated for profit and not operated on a sharecrop basis and which are used exclusively for supply and storing of water for agricultural purposes;

(h) an employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee is:

(i) primarily employed during his workweek in agriculture by such farmer; and

(ii) paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by 39-3-404;

(i) an employee of an establishment commonly

recognized as a country elevator, including an establishment which sells products and services used in the operation of a farm, if no more than five employees are employed by the establishment;

(j) a driver employed by an employer engaged in the business of operating taxicabs;

(k) an employee who is employed with his spouse by a nonprofit educational institution to serve as the parents of children who are orphans or one of whose natural parents is deceased or who are enrolled in such institution and reside in residential facilities of the institution so long as the children are in residence at the institution and so long as such employee and his spouse reside in such facilities and receive, without cost, board and lodging from the institution and are together compensated, on a cash basis, at an annual rate of not less than $10,000; or

(l) an employee employed in planting or tending trees; cruising, surveying, or felling timber; or transporting logs or other forestry products to a mill, processing plant, railroad, or other transportation terminal if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight; or

(m) an employee of a sheriff's department who is working under an established workperiod in lieu of a workweek pursuant to [section 3]."

NEW SECTION. SECTION 7. CONSTRUCTION IN EVENT OF CONFLICT. IF THERE IS A CONFLICT BETWEEN SECTIONS 2 THROUGH 5 AND ANY OTHER LAW, SECTIONS 2 THROUGH 5 GOVERN WITH RESPECT TO UNDERSHERIFFS AND DEPUTY SHERIFFS.

-End-

MINUTES OF THE MEETING
SENATE LOCAL GOVERNMENT COMMITTEE
MARCH 18, 1981

The meeting of the Local Government Committee was called to order by Chairman George McCallum on the above date in Room 405 at 7:30 p.m.

ROLL CALL: Senators Thomas and Van Valkenburg were excused, all other members were present with Senator Conover coming in late due to another meeting.

CONSIDERATION OF HOUSE BILL 558:

AN ACT TO REVISE THE COMPENSATION PROVISIONS RELATING TO DEPUTY SHERIFFS AND UNDERSHERIFFS.

Representative Brown, District 83, said SB375 is included in this House bill. Under current state law deputies cannot make more than 90% of the sheriff's pay, including overtime. The result is deputies often work overtime for no compensation. Grievances are pending in Helena for deputies who worked 17-hour days during the Augusta Rodeo and received no compensation because they were already at the maximum. We cannot say they cannot be required to work overtime but we should have enough respect to pay them for work performed. Overtime would be eliminated from the 90% rule. Base pay could not go more than 90%, however.

John Scully, Sheriffs and Peace Officers Association, said the percentage changes afforded in SB375 are also in this bill. Something will have to be done with the percentages after SB50 is dealt with. The subcommittee on SB50 met to deal with the bill in the House and should report it out by the first of next week.

Chuck O'Reilly, Lewis and Clark County Sheriff, said the main part of the bill starts on page 3. The rank structure is to allow for graduated increases within the department. Compensation relate only to base pay, not overtime or longevity. They need a work period in lieu of a work week because in law enforcement with a regular 5-day work week the officers seldom see a weekend off. Many departments are illegally running on 6 days on, 3 days off. Page 5 through the rest of the bill is existing law. The last section on the last page exempts law enforcement agencies from 40-hour work weeks. Section 4, page 4 is compensation for hours worked overtime, 1 1/2 times the hourly rate. Longevity is 1%. Compensation time creates a vicious circle. When one officer builds up time to take off they would have to work another officer overtime to compensate. Many officers work 10 months of overtime for free. City police have no limit. County commissioners would still have control of the budget so this will not get out of hand.

John Onstad, sheriff of Gallatin County and president of the Sheriffs and Peace Officers Association, supports the bill.

The deputy sheriffs that were in support of the bill and in attendance at the hearing each stood up and gave their name and the county they represented. (See attached visitor sheets for names and counties.)

Sharon Donaldson, AFSCME, Council 9, AFL-CIO, said she was representing the deputies from Lewis and Clark County and they support the bill and urge its passage.

Al Rierson, Flathead County Sheriff, supports the bill. This helps management in their supervisory responsibility. Flathead County has four officers with over ten years of service. The average is five years. Their careers are on the line because of their low income. He presented the committee with a breakdown of monthly expenses for one deputy. (See attached Exhibit A.) This creates many family problems.

Senator O'Hara spoke briefly in support of the bill. He said this bill is the same as SB375 which he presented to the committee a few weeks ago. It is a good bill.

There were no opponents of the bill appearing before the committee.

Senator McCallum then called for questions from the committee.

Senator McCallum asked Mr. Scully to keep the committee posted on what the House was doing with SB50.

Mr. Scully agreed and said it would be Friday at the earliest before they made a decision.

Senator Conover asked if this was tied to SB50.

Mr. Scully said SB375 was put into this bill and the committee might want to change the percentages after SB50 is decided upon.

CONSIDERATION OF HOUSE BILL 393:

AN ACT TO REMOVE THE REQUIREMENT THAT BOARDS OF COUNTY COMMISSIONERS MUST PUBLISH A DETAILED LIST OF THEIR EXPENDED CLAIMS; REQUIRING THE PUBLISHING OF EXPENDITURE TOTALS.

Representative Vinger, District No. 3, said this is a simple bill. On lines 18 and 19 they struck "complete list of all claims ordered paid for all purposes showing the name, purpose and amount" and added "the expenditure totals for each budget category, the total expended in each fund for the budget year." He thinks they have been requiring too much in the past.

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 3/18/81

NAME	PRESENT	ABSENT	EXCUSED
Senator George McCallum	✓		
Senator Jesse O'Hara	✓		
Senator H. W. Hammond	✓		
Senator J. Donald Ochsner	✓		
Senator Bill Thomas	Excused		
Senator Max Conover	✓		
Senator Fred Van Valkenburg	✓ Excused		

Each day attach to minutes.

DATE MARCH 18, 1981

COMMITTEE ON LOCAL GOVERNMENT BILL NO. HB558

VISITOR'S REGISTER

NAME	REPRESENTING	Check One: Support	Oppose
G. F. Hagerman	AFSCME, AFL-CIO	✓	
[illegible]	AFSCME, Council 9 AFL-CIO	✓	
A. L. Pierson	Sheriff F.C.S.O.	✓	
[illegible]	Flathead Co. Sheriff's Dept	✓	
[illegible]	" "	✓	
[illegible]	" "	✓	
James B. Haupt	" "	✓	
[illegible]	Int. Ass't Chiefs of Police		
Robert Campbell	Gallatin Co. Sheriff	✓	
[illegible]	Cascade Co. Sheriff's Dept	✓	
[illegible]	Sheriff's Office	✓	
L John Oustad	Mont Sheriffs + Peace Officers	✓	
[illegible]			
[illegible]	Rep. - District 83 - Sponsor	-	
[illegible]	Missoula Co. Sheriff	✓	
John A. Reed	" " "	✓	
Tom Ward	" " "	✓	
Ed Brown	" " "	✓	
Gerald K Bell	" " "	✓	
MIKE McFERRIN	Lewis + Clark County Sheriff	✓	
[illegible]	" " " " "	✓	
Jim McClure	" " " " "	-	
John H. Peterson Jr.	" " " " "	✓	
Patricia McGrew	Mala Co Sheriff - 911 Dispatch	✓	
[illegible]	Mala Co Sheriff Dept	✓	
David C. Franklin	" " " "	✓	

(Please leave prepared statement with Secretary)

DATE 3/18/81

COMMITTEE ON Local Government BILL NO. HB558

VISITOR'S REGISTER

NAME	REPRESENTING	Check One: Support	Check One: Oppose
David R Zaruba	Lewis & Clark Co. Sheriff Dept	✓	
Ray Hatchett	Lewis & Clark Co. Sheriff's Dept.	✓	
Jack Shannon	Lewis & Clark Co. Sheriff's Dept.	✓	
[illegible]	" " "	✓	
J. M. O'HARA	MISSOULA COUNTY DEPUTY SHERIFF'S ASSOC	✓	
[illegible]	[illegible] Sheriff's Assoc.		
Curt Bibby	Mont. Sheriff + Peace Off.	✓	
[illegible]	"	✓	

(Please leave prepared statement with Secretary)

NAME: Chuck O'Reilly DATE: 3-18-81

ADDRESS: Helena

PHONE: 458-9146

REPRESENTING WHOM? Mont. Sheriffs & Peace Officers

APPEARING ON WHICH PROPOSAL: HB558

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: L John Onstad DATE: 3-18-81

ADDRESS: Bozeman, Mt.

PHONE: 587-4809

REPRESENTING WHOM? Montana Sheriff's

APPEARING ON WHICH PROPOSAL: HB 558

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Al Kierson DATE: 3-18-81

ADDRESS: 1467 - Highway # 2 - W - Kalispell

PHONE: 257-1740 OR 755-3691

REPRESENTING WHOM? Self & Flathead County

APPEARING ON WHICH PROPOSAL: House Bill # 558

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? _____

COMMENTS: To speak in Support of Bill

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

MINUTES OF THE MEETING
SENATE LOCAL GOVERNMENT COMMITTEE
MARCH 24, 1981

The meeting of the Local Government Committee was called to order by Chairman George McCallum on the above date in Room 405 at 7:30 p.m.

ROLL CALL: All members were present with Senators Conover, Van Valkenburg and Thomas coming in late due to other meetings.

CONSIDERATION OF HOUSE BILL 555:

AN ACT AMENDING SECTION 19-12-301, MCA, TO REQUIRE PAYMENT TO THE VOLUNTEER FIREFIGHTERS' COMPENSATION FUND FROM THE INSURANCE PREMIUM TAX BEFORE PAYMENT TO THE DISABILITY AND PENSION FUNDS OF THE FIRE DEPARTMENT RELIEF ASSOCIATIONS.

Representative Manning, District No. 35, said they changed the wording on line 17, striking "after" and inserting "before". On line 18 they have stricken "have first been" and inserted "are". Under present law the state contributes to the firemen's compensation fund 5% of the total premium tax. If the compensation plan is to be funded out of the balance after payments to the first and second class cities, they would receive less than 5%. This bill alleviates the problem. Most fire districts being organized are comprised of younger persons, hopefully the fund will have sufficient money to support their compensation fund. (See attached Exhibit A.)

Rick Tucker, State Auditor's office, is the dispersing agent to the fire association. If this bill isn't passed, any increase in paid firemen's benefits will cause a 5% deduction from the volunteer firemen's fund. This switches it around to pay the volunteers 5% and the balance will be paid out of other retirement associations.

Ray Blehm, legislative delegate from the Montana Firemen's Association, supports the bill.

Art Korn, secretary/treasurer of the Montana Volunteer Firemen's Association, supports the bill.

Jim Turcotte, Public Employees Retirement Division, spoke in support of the bill. (See attached Exhibit B.)

R. A. Ellis, Montana Volunteer Firemen's Association, supports the bill. Benefits derived from this pension to the firemen carry over to the people being protected. We will have better quality firefighers.

Senator O'Hara asked Mr. Hanson if he had some amendments that would take care of his problem with the bill.

Mr. Hanson said he has amendments to HB202.

Senator Hammond said there is a court decision being appealed where a 4-plex in Turner is empty because of the building code situation. If it contains more than 4 dwellings, it is a public place. We tried to put that in HB202 but it didn't work.

Dan Mizner said the amendments on page 1, line 24 ought to say "unless local government adopts the codes". It was not the intent of the sponsor.

Senator Ochsner asked how many building inspectors there are in the state.

Mr. Kembel said there are 2 inspectors in the state. There is a total of 30 employees but they didn't have the funds for more staff. In counties they inspect public places, in the cities they inspect all buildings.

DISCUSSION OF HOUSE BILL 765: Sonny Lockrem, retired state senator, was allowed to speak in opposition of the bill. He said he had written a letter to the committee members outlining his objections to the bill. He said the committee should analyze legislative verses regulatory positions. The PSC saved Billings $600,000. The city did have to pay $42,000 but they did save a substantial amount. City councils have no expertise, Billings would have paid the $600,000 if they had not gone through the PSC.

Senator McCallum appointed a subcommittee to check into the bill. He asked that Senator Thomas and Senator Ochsner work with Debbie Schmidt on the bill

DISCUSSION OF HOUSE BILL 558: Senator McCallum explained this was the bill on the deputy sheriffs' salaries. The House is making changes in SB50. They probably will not decide on it until Thursday and that will be too late for us to do anything with this bill. He asked the committee if they would like to consider the bill with the assumption that the House would adopt SB50 as it is being proposed.

Senator Van Valkenburg asked what they were doing with SB50.

Senator McCallum said he has heard they came up with a $14,000 base and $10 per 100 population. The sheriffs would receive an additional $2,000, county superintendents would receive $400 and part-time county attorneys would receive an extra $1,200. The major change is giving every county a $14,000 base. This committee

had decided on two different bases and increments. The county commissioners removed their $2,500 and coroners were removed from the bill entirely.

Sheriff O'Reilly, Lewis and Clark County, handed out printouts to the committee on the effects the bill would have on deputies' salaries in the different counties. They tried to figure out a new formula that would be getting away from taxable valuation and base in solely on population. He also handed out amendments for the bill and explained them. (See attached Exhibit E.) Eleven counties are getting a 7% increase because of the grandfather clause that provides if they do not receive at least a 7% increase through the formula, they will get a 7% increase. Those counties are: Beaverhead, Jefferson, Madison, Musselshell, Park, Powder River, Powell, Rosebud, Sanders, Stillwater and Teton. They were rising at a higher rate than the other counties statewide. He does not have the overall percentage increase but thinks it would range from a 18.2% high to a low of 7%.

Senator McCallum said we cannot act on this bill until the House decides on SB50.

Senator Van Valkenburg said an alternative would be to amend this bill so it would be unacceptable to the House if it doesn't fit in with SB50.

Senator McCallum appointed a subcommittee to come up with amendments that would pass the floor of the Senate so the bill would get to a conference committee. He appointed Senator O'Hara and Senator Van Valkenburg to the subcommittee.

DISPOSITION OF HOUSE BILL 179: Gary Wiens, Subdivision Bureau, said the $40 per lot fee would be an increase of $15. They wanted to increase the reimbursement to the counties and also retain their staff at 6 FTE's. In 1977 and 1978 they hit a peak of between 14,000 and 15,000 subdivision lots. At that time they had trouble keeping up with the workload. Since then they have seen a decline of 1/3 and reduced their staff by 2.5 people. With 6 FTE they have a cushion in case they lose someone. They have 3 professionals, they want to continue to keep the bureau at 6 FTE and increase reimbursement to the counties.

Senator Van Valkenburg asked Mr. Wiens if the Appropriations subcommittee that deals with their budget made a determination that they do not want to increase lot fees and instead reduce FTE's, how do you expect to change their minds at this stage.

Don Williams, administrator of Environmental Sciences, said if the fee increase came about then they are willing to increase the amount of money to subdivision reviews. They are leaving

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 3/24/81
1:30

NAME	PRESENT	ABSENT	EXCUSED
Senator George McCallum	✓		
Senator Jesse O'Hara	✓		
Senator H. W. Hammond	✓		
Senator J. Donald Ochsner	✓		
Senator Bill Thomas	✓		
Senator Max Conover			✓
Senator Fred Van Valkenburg	✓		

Each day attach to minutes.

COUNTY	CLASS	POP	PRESENT SHERIFF BASE SALARY	PCT	PRESENT DEPUTY BASE SALARY	$14,000 +2000 +10/100 SHERIFF	HB558 AS WRITTEN PCT	HB558 AS WRITTEN DEPUTY SALARY	HB558 AS WRITTEN CHANGE	HB558 IF AMENDED EXISTING 75-90 PCT LAW PCT	HB558 IF AMENDED EXISTING 75-90 PCT LAW DEPUTY SALARY	HB558 IF AMENDED EXISTING 75-90 PCT LAW CHANGE	HB558 IF AMENDED ALTERNATIVE PERCENT LAW PCT	HB558 IF AMENDED ALTERNATIVE PERCENT LAW DEPUTY SALARY	HB558 IF AMENDED ALTERNATIVE PERCENT LAW CHANGE
Beaverhead	4	8200	14405	90%	12965	16820	75%	12615	-350	90%	15138	+2174	78%	13120	+155
Big Horn	1	11100	16513	75%	12385	17110	75%	12833	+448	75%	12833	+448	78%	13346	+961
Blaine	2	7000	14434	75%	10826	16700	75%	12525	+1700	75%	12525	+1700	78%	13026	+2201
Broadwater	6	3300	12789	90%	11510	16330	75%	12248	+737	90%	14697	+3187	78%	12737	+1227
Carbon	3	8100	14539	75%	10904	16810	75%	12608	+1703	75%	12608	+1703	78%	13112	+2208
Carter	6	1800	12627	90%	11364	16180	75%	12135	+771	90%	14562	+3198	78%	12620	+1256
Cascade	1	80600	20640	75%	15480	24060	60%	14436	-1044	75%	18045	+2565	72%	17323	+1843
Chouteau	3	6100	14303	75%	10727	16610	75%	12458	+1730	75%	12458	+1730	78%	12956	+2229
Custer	3	13100	14928	75%	11196	17310	75%	12983	+1787	75%	12983	+1787	78%	13502	+2306
Daniels	6	2800	12896	90%	11606	16280	75%	12210	+604	90%	14652	+3046	78%	12698	+1092
Dawson	3	11900	14913	75%	11185	17190	75%	12893	+1708	75%	12893	+1708	78%	13408	+2223
Deer Lodge	4	12500	14928	90%	13435	17250	75%	12938	-498	90%	15525	+2090	78%	13455	+20
Fallon	2	3800	14763	75%	11072	16380	75%	12285	+1213	75%	12285	+1213	78%	12776	+1704
Fergus	3	13100	15182	75%	11387	17310	75%	12983	+1596	75%	12983	+1596	78%	13502	+2115
Flathead	1	51500	18009	75%	13507	21150	65%	13747	+241	75%	15863	+2356	74%	15651	+2144
Gallatin	1	42800	17291	75%	12968	20280	65%	13182	+214	75%	15210	+2242	74%	15007	+2039
Garfield	6	1600	12521	90%	11269	16160	75%	12120	+851	90%	14544	+3275	78%	12605	+1336
Glacier	2	9700	15497	75%	11623	16970	75%	12728	+1105	75%	12728	+1105	78%	13237	+1614
Golden Valley	7	1000	11878	90%	10690	16100	75%	12075	+1385	90%	14490	+3800	78%	12558	+1868
Granite	6	2700	12148	90%	10933	16270	75%	12203	+1269	90%	14643	+3710	78%	12691	+1757
Hill	2	17900	15885	75%	11914	17790	70%	12453	+539	75%	13343	+1429	76%	13520	+1607
Jefferson	5	7000	13807	90%	12426	16700	75%	12525	+99	90%	15030	+2604	78%	13026	+600
Judith Basin	5	2600	12775	90%	11498	16260	75%	12195	+698	90%	14634	+3137	78%	12683	+1185
Lake	3	19100	15436	75%	11577	17910	70%	12537	+960	75%	13433	+1856	76%	13612	+2035
Lewis and Clark	1	43100	17290	75%	12968	20310	65%	13202	+234	75%	15233	+2265	74%	15029	+2062
Liberty	4	2300	12880	90%	11592	16230	75%	12173	+581	90%	14607	+3015	78%	12659	+1067
Lincoln	3	17700	15182	75%	11387	17770	70%	12439	+1053	75%	13328	+1941	76%	13505	+2119
Madison	4	2700	13656	90%	12290	16270	75%	12203	-88	90%	14643	+2353	78%	12691	+400
McCone	5	5400	12880	90%	11592	16540	75%	12405	+813	90%	14886	+3294	78%	12901	+1309
Meagher	6	2100	12148	90%	10933	16210	75%	12158	+1224	90%	14589	+3656	78%	12644	+1711
Mineral	7	3700	12267	90%	11040	16370	75%	12278	+1237	90%	14733	+3693	78%	12769	+1728
Missoula	1	75400	19892	75%	14919	23540	60%	14124	-795	75%	17655	+2736	72%	16949	+2030
Musselshell	4	4400	13656	90%	12290	16440	75%	12330	+40	90%	14796	+2506	78%	12823	+533
Park	4	13000	14657	90%	13191	17300	75%	12975	-216	90%	15570	+2379	78%	13494	+303
Petroleum	7	700	1200	90%	1080	16070	75%	12053	+10973	90%	14463	+13383	78%	12535	+11455
Phillips	3	5400	13523	75%	10142	16540	75%	12405	+2263	75%	12405	+2263	78%	12901	+2759
Pondera	3	6700	14434	75%	10826	16670	75%	12503	+1677	75%	12503	+1677	78%	13003	+2177
Powder River	1	2500	16469	75%	12352	16250	75%	12188	-164	75%	12188	-164	78%	12675	+323
Powell	5	6900	13911	90%	12520	16690	75%	12518	-2	90%	15021	+2501	78%	13018	+498
Prairie	6	1800	12148	90%	10933	16180	75%	12135	+1202	90%	14562	+3629	78%	12620	+1687
Ravalli	3	22400	15303	75%	11477	18240	70%	12768	+1291	75%	13680	+2203	76%	13862	+2385

			PRESENT			SB50 $14,000 +2000 +10/100	HB558 AS WRITTEN			HB558 IF AMENDED EXISTING 75-90 PCT LAW			HB558 IF AMENDED ALTERNATIVE PERCENT LAW		
COUNTY	CLASS	POP	SHERIFF BASE SALARY	PCT	DEPUTY BASE SALARY	SHERIFF	PCT	DEPUTY SALARY	CHANGE	PCT	DEPUTY SALARY	CHANGE	PCT	DEPUTY SALARY	CHANGE
ichland	1	12200	15496	75%	11622	17220	75%	12915	+1293	75%	12915	+1293	78%	13432	+1810
oosevelt	3	10400	15047	75%	11285	17040	75%	12780	+1495	75%	12780	+1495	78%	13291	+2006
osebud	1	10000	18293	75%	13720	17000	75%	12750	-970	75%	12750	-970	78%	13260	-460
anders	4	8600	14405	90%	12965	16860	75%	12645	-320	90%	15174	+2210	78%	13151	+186
heridan	2	5400	13912	75%	10434	16540	75%	12405	+1971	75%	12405	+1971	78%	12901	+2467
ilver Bow	1	37900	17469	75%	13102	19790	65%	12864	-238	75%	14843	+1741	74%	14645	+1543
tillwater	5	5600	13523	90%	12171	16560	75%	12420	+249	90%	14904	+2733	78%	12917	+746
weetgrass	6	3200	12789	90%	11510	16320	75%	12240	+730	90%	14688	+3178	78%	12730	+1220
eton	4	6500	13914	90%	12523	16650	75%	12488	-35	90%	14985	+2462	78%	12987	+464
ole	2	5600	14165	75%	10624	16560	75%	12420	+1796	75%	12420	+1796	78%	12917	+2293
reasure	7	1000	11881	90%	10693	16100	75%	12075	+1382	90%	14490	+3797	78%	12558	+1865
alley	3	10200	15048	75%	11286	17020	75%	12765	+1479	75%	12765	+1479	78%	13276	+1990
heatland	6	2400	12148	90%	10933	16240	75%	12180	+1247	90%	14616	+3683	78%	12667	+1734
ibaux	5	1500	12775	90%	11498	16150	75%	12113	+615	90%	14535	+3038	78%	12597	+1100
ellowstone	1	107700	22881	75%	17161	26770	55%	14724	-2437	75%	20078	+2917	72%	19274	+2114

Exhibit (0)

EXHIBIT E(2)

PROPOSED AMENDMENTS TO HB558

Page 3, line 10....strike 75% and insert 78%
Page 3, line 11....strike 70% and insert 76%
Page 3, line 12....strike 65,999 and insert 74,999
Page 3, line 12....strike 65% and insert 74%
Page 3, line 13....strike 66,000 to 99,999 and insert 75,000 and over
Page 3, line 13....strike 60% and insert 72%
Page 3, line 14....strike 100,000 and over....55% to 90%

Requested by the Montana Sheriffs and Peace Officers Association.

MINUTES OF THE MEETING
SENATE LOCAL GOVERNMENT COMMITTEE
MARCH 26, 1981

The meeting of the Local Government Committee was called to order by Chairman George McCallum on the above date in Room 405 at 12:15 p.m.

ROLL CALL: All members were present.

DISPOSITION OF HOUSE BILL 558: Senator Van Valkenburg made a motion to adopt the amendments to the bill. The motion carried unanimously.

Senator Van Valkenburg moved the bill be concurred in as amended. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 765: Senator Thomas handed out the amendments the subcommittee came up with for the bill. On page 1 they decided to change 15% to 10%. Notice of what an average customer would pay has to be sent within the monthly statement and also posted in the newspaper. On page 3 they have reduced 15% to 10%. The rates may be appealed to district court. If distribution is outside the city they cannot raise rates disproportionately. This is a compromise.

Debbie Schmidt said there was a mistake in the amendments, she would have to add an amendment about requiring people outside of the city to be charged the same amount.

Senator Ochsner asked if 10% was going to keep up with inflation.

Senator Thomas said most people were concerned that 15% was too high, perhaps in two years we can raise it.

Senator McCallum asked Dan Mizner if there was to be an effective date.

Mr. Mizner said he would like July 1, 1981 as the effective date.

Senator McCallum said that was in the bill and it remains effective through July 1, 1983.

Mr. Mizner said 12% to 15% is looking at the cost of living and growth of the cities.

Senator Thomas moved the amendments be adopted.

Senator Van Valkenburg asked that the vote be separated for amendments 2 and 7.

Senator Thomas said there was a major problem with the 15%. He

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 3/26/81

NAME	PRESENT	ABSENT	EXCUSED
Senator George McCallum	✓		
Senator Jesse O'Hara	✓		
Senator H. W. Hammond	✓		
Senator J. Donald Ochsner	✓		
Senator Bill Thomas	✓		
Senator Max Conover	✓		
Senator Fred Van Valkenburg	✓		

Each day attach to minutes.

PROPOSED AMENDMENTS TO HB558

1. Page 3, line 2.
Strike: section 2 in its entirety
Renumber: subsequent sections

2. Page 9, line 3.
Following: line 2
Strike: "5"
Insert: "4"
Following: "through"
Strike: "5"
Insert: "4"

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 3/26/81 House Bill No. 558 Time 12:15

NAME	YES	NO
Senator George McCallum	✓	
Senator Jesse O'Hara	✓	
Senator H. W. Hammond	✓	
Senator J. Donald Ochsner	✓	
Senator Bill Thomas	✓	
Senator Max Conover	✓	
Senator Fred Van Valkenburg	✓	

Gail Stockwell
Secretary, Gail Stockwell

George McCallum
Chairman, GEORGE MCCALLUM

Motion: Senator Van Valkenburg moved the bill be concurred in as amended.

(include enough information on motion—put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 26 19 81

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 558

D BROWN (VAN VALKENBURG)

Respectfully report as follows: That HOUSE Bill No. 558

third reading (blue) copy, be amended as follows:

1. Page 3, line 2.
Strike: section 2 in its entirety
Renumber: subsequent sections

2. Page 9, line 3.
Following: line 2
Strike: "5"
Insert: "4"
Following: "through"
Strike: "5"
Insert: "4"

And, as so amended, BE CONCURRED IN

~~DO PASS~~

GA

GEORGE MCCALLUM, Chairman.

STATE PUB. CO.
Helena, Mont.

50

HOUSE BILL NO. 558

INTRODUCED BY D. BROWN, KEYSER

A BILL FOR AN ACT ENTITLED: "AN ACT ~~TO PROVIDE--THAT--THE RESTRICTIONS--IMPOSED-ON~~ REVISE THE COMPENSATION ~~OF-A-DEPUTY SHERIFF--OR-AN-UNDERSHERIFF-DO-NOT-APPLY-TO-ANY--BENEFITS--OR ANY--PAYMENTS--FOR-HOURS-WORKED-OVERTIME~~ PROVISIONS RELATING TO DEPUTY SHERIFFS AND UNDERSHERIFFS; AMENDING ~~SECTION~~ SECTIONS 7-4-2505 AND 39-3-406, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-4-2505, MCA, is amended to read:

"7-4-2505. Amount of compensation for deputies and assistants. (1) ~~Except--as--provided--in--subsection--(2),~~ Subject to ~~subsections~~ SUBSECTION (2) ~~and--(3),~~ the boards of county commissioners in the several counties in the state shall have the power to fix the compensation allowed any deputy or assistant of the following officers:

~~(a)--sheriff;~~

~~(b)~~(A) clerk and recorder;

~~(c)~~(B) clerk of the district court;

~~(d)~~(C) treasurer;

~~(e)~~(D) assessor;

~~(f)~~(E) county attorney;

~~(g)~~(F) auditor.

(2) (a) ~~Except-as-provided-in-subsection--(2)(b),--the~~ THE salary of ~~no~~ a deputy or an assistant LISTED IN SUBSECTION (1) ~~shall~~ may not be more than 90% of the salary of the officer under whom such deputy or assistant is serving.

~~(b)--In---fixing---the---compensation----allowed----the undersheriff,--the--board--must--fix--the-same-at-95%-of-the salary-of-the--officers--under--whom--such--undersheriff--is serving.--In--fixing--the--compensation--allowed--the-deputy sheriffs,-the-board-must-fix-the-same-at-90%-of--the--salary of--the--officer--under-whom-such-deputy-sheriff-is-serving, except-in-counties-of-the-first,-second,-or-third-class,--in which--the--board--must-fix-the-same-at-not-less-than-75%-or more-than-90%-of-the-salary-of-the-officer-under--whom--such deputy-sheriff-is-serving.~~

~~(c)~~(3) Where any deputy or assistant is employed for a period of less than 1 year, the compensation of such deputy or assistant shall be for the time so employed, provided the rate of such compensation shall not be in excess of the rates now provided by law for similar deputies and assistants except as provided herein.

~~(d)~~(C) Deputy assessors' salaries shall be the same as paid the deputy clerk and recorder.

~~(3)--For--purposes--of--subsection--(2)(a),--the---term "compensation"--means-the-base-rate-of-pay-and-does-not-mean~~

REFERENCE BILL

~~any benefits or any payments for hours worked overtime.~~"

~~NEW SECTION. SECTION 2. COMPENSATION OF UNDERSHERIFF AND DEPUTY SHERIFF. (1) THE SHERIFF SHALL FIX THE COMPENSATION OF THE UNDERSHERIFF AT 95% OF THE SALARY OF THAT SHERIFF.~~

~~(2) (A) THE SHERIFF SHALL FIX THE COMPENSATION OF THE DEPUTY SHERIFF BASED UPON A PERCENTAGE OF THE SALARY OF THAT SHERIFF ACCORDING TO THE FOLLOWING SCHEDULE:~~

~~IN COUNTIES WITH POPULATION OF:~~

~~BELOW 15,000 ..... 75% TO 90%~~

~~15,000 TO 29,999 ..... 70% TO 90%~~

~~30,000 TO 65,999 ..... 65% TO 90%~~

~~66,000 TO 99,999 ..... 60% TO 90%~~

~~100,000 AND OVER ..... 55% TO 90%~~

~~(B) THE SHERIFF SHALL ADJUST THE COMPENSATION OF THE DEPUTY SHERIFF WITHIN THE RANGE PRESCRIBED IN SUBSECTION (A) according TO A RANK STRUCTURE IN THE DEPARTMENT.~~

~~(3) FOR PURPOSES OF THIS SECTION, THE TERM "COMPENSATION" MEANS THE BASE RATE OF PAY AND DOES NOT MEAN LONGEVITY PAYMENTS OR PAYMENTS FOR HOURS WORKED OVERTIME.~~

NEW SECTION. SECTION 2. OPTION TO ESTABLISH WORKPERIOD IN LIEU OF WORKWEEK. (1) A SHERIFF'S DEPARTMENT MAY ESTABLISH A WORKPERIOD OTHER THAN THE WORKWEEK PROVIDED IN 39-3-405 FOR DETERMINING WHEN AN EMPLOYEE MUST BE PAID OVERTIME.

(2) THE AGGREGATE OF ALL WORKPERIODS IN A YEAR, WHEN EXPRESSED IN HOURS, MAY NOT EXCEED 2,080 HOURS.

NEW SECTION. SECTION 3. COMPENSATION FOR HOURS WORKED OVERTIME. ANY UNDERSHERIFF OR DEPUTY SHERIFF WHO WORKS IN EXCESS OF HIS REGULARLY SCHEDULED WORKPERIOD MUST BE COMPENSATED FOR THE HOURS WORKED IN EXCESS OF THE WORKPERIOD AT A RATE OF NOT LESS THAN 1 1/2 TIMES THE HOURLY RATE AT WHICH HE IS EMPLOYED.

NEW SECTION. SECTION 4. LONGEVITY PAYMENTS. BEGINNING ON THE DATE OF HIS FIRST ANNIVERSARY OF EMPLOYMENT WITH THE DEPARTMENT AND ADJUSTED ANNUALLY, A DEPUTY SHERIFF OR UNDERSHERIFF IS ENTITLED TO RECEIVE A LONGEVITY PAYMENT AMOUNTING TO 1% OF HIS ANNUAL SALARY FOR EACH YEAR OF SERVICE WITH THE DEPARTMENT. THIS PAYMENT SHALL BE MADE IN EQUAL MONTHLY INSTALLMENTS.

SECTION 5. SECTION 39-3-406, MCA, IS AMENDED TO READ:

"39-3-406. Exclusions. (1) The provisions of 39-3-404 and 39-3-405 shall not apply with respect to:

(a) students participating in a distributive education program established under the auspices of an accredited educational agency;

(b) persons employed in private homes whose duties consist of menial chores such as baby sitting, mowing lawns, cleaning sidewalks;

(c) persons employed directly by the head of a

household to care for children dependent upon the head of the household;

(d) immediate members of the family of an employer or persons dependent upon an employer for half or more of their support in the customary sense of being a dependent;

(e) any persons not regular employees thereof who voluntarily offer their services to a nonprofit organization on a fully or partially reimbursed basis;

(f) handicapped workers engaged in work which is incidental to training or evaluation programs or whose earning capacity is so severely impaired that they are unable to engage in competitive employment;

(g) apprentices or learners, who may be exempted by the commissioner for a period not to exceed 30 days of their employment;

(h) learners under the age of 18 who are employed as farm workers, provided that such exclusion shall not exceed a period of 180 days from their initial date of employment and further provided that during this exclusion period wages paid such learners may not be less than 50% of the minimum wage rate established in this part;

(i) retired or semiretired persons performing part-time incidental work as a condition of their residence on a farm or ranch;

(j) any individual employed in a bona fide executive,

administrative, or professional capacity as these terms are defined and delimited by regulations of the commissioner;

(k) any individual employed by the United States of America.

(2) The provisions of 39-3-405 do not apply to:

(a) an employee with respect to whom the United States Secretary of Transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of 49 U.S.C. 304;

(b) an employee of an employer subject to the provisions of part I of the Interstate Commerce Act;

(c) an individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state;

(d) a salesman, partsman, or mechanic paid on a commission or contract basis and primarily engaged in selling or servicing automobiles, trucks, mobile homes, recreational vehicles, or farm implements if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles or implements to ultimate purchasers;

(e) a salesman primarily engaged in selling trailers, boats, or aircraft if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling trailers, boats, or aircraft to ultimate purchasers;

(f) an employee employed as a driver or driver's helper making local deliveries who is compensated for such employment on the basis of trip rates, or other delivery payment plan, if the commissioner finds that such plan has the general purpose and effect of reducing hours worked by such employees to or below the maximum workweek applicable to them under 39-3-405;

(g) an employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways not owned or operated for profit and not operated on a sharecrop basis and which are used exclusively for supply and storing of water for agricultural purposes;

(h) an employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee is:

(i) primarily employed during his workweek in agriculture by such farmer; and

(ii) paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by 39-3-404;

(i) an employee of an establishment commonly

recognized as a country elevator, including an establishment which sells products and services used in the operation of a farm, if no more than five employees are employed by the establishment;

(j) a driver employed by an employer engaged in the business of operating taxicabs;

(k) an employee who is employed with his spouse by a nonprofit educational institution to serve as the parents of children who are orphans or one of whose natural parents is deceased or who are enrolled in such institution and reside in residential facilities of the institution so long as the children are in residence at the institution and so long as such employee and his spouse reside in such facilities and receive, without cost, board and lodging from the institution and are together compensated, on a cash basis, at an annual rate of not less than $10,000; or

(l) an employee employed in planting or tending trees; cruising, surveying, or felling timber; or transporting logs or other forestry products to a mill, processing plant, railroad, or other transportation terminal if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight.; or

(m) an employee of a sheriff's department who is working under an established workperiod in lieu of a workweek pursuant to [section 3]."

NEW SECTION. SECTION 6. CONSTRUCTION IN EVENT OF CONFLICT. IF THERE IS A CONFLICT BETWEEN SECTIONS 2 THROUGH ~~5~~ 4 AND ANY OTHER LAW, SECTIONS 2 THROUGH ~~5~~ 4 GOVERN WITH RESPECT TO UNDERSHERIFFS AND DEPUTY SHERIFFS.

-End-

April 21, 19 81

FREE CONFERENCE COMMITTEE
ON HOUSE BILL NO. 558

(Report No. 1, April 21, 1981)

MR. PRESIDENT AND SPEAKER OF THE HOUSE:

We, your Free Conference Committee on House Bill No. 558, met April 21, 1981, and considered:

Senate Local Government Committee Amendments to the third reading copy, dated March 26, 1981, and recommend as follows:

That the Senate accede to Committee amendment no. 1;

That the House recede from Committee amendment No. 2;

That House Bill 558 be further amended as specified in the CLERICAL INSTRUCTIONS nos. 1 through 5.

That the reference copy of House Bill No. 558 read as specified in the CLERICAL INSTRUCTIONS;

And, that the Conference Report to House Bill No. 558 be adopted.

CLERICAL INSTRUCTIONS:

1. Page 9, line 3.
Following: "5"
Strike: "4"
Insert: "5"
Following: "5"
Strike: "4"
Insert: "5"

2. Page 3.
Following: line 20
Insert: "NEW SECTION. Section 2. Compensation of undersheriff and deputy sheriff. (1) The sheriff shall fix the compensation of the undersheriff at 95% of the salary of that sheriff. (2)(a) The sheriff shall fix the compensation of the deputy sheriff based upon a percentage of the salary of that sheriff according to the following schedule:

In counties with population of:
Below 15,000 . . . . . .85% to 90%
15,000 to 29,999 . . . . . .76% to 90%
30,000 to 74,999 . . . . . .74% to 90%
75,000 and over . . . . . .72% to 90%

(b) The sheriff shall adjust the compensation of the deputy sheriff within the range prescribed in subsection (a) according to a rank structure in the department.

(Continued)

56

(3) For purposes of this section, the term "compensation" means the base rate of pay and does not mean longevity payments or payments for hours worked overtime."

Renumber: subsequent sections

3. Page 3, line 24.
Following: "39-3-405"
Insert: "or 7-32-2111"
Following: "EMPLOYEE"
Strike: "MUST"
Insert: "may"

4. Page 4, lines 4 through 8
Following: "OVERTIME."
Strike: The remainder of section 3 in its entirety
Insert: "The board of county commissioners may by resolution establish that any undersheriff or deputy sheriff who works in excess of his regularly scheduled work period will be compensated for the hours worked in excess of the work period at a rate to be determined by that board of county commissioners."

5. Page 4, line 13.
Following: "1% OF"
Strike: "HIS"
Insert: "the minimum base"

FOR THE HOUSE:

Sales, Chairman

Vinger

Dussault

FOR THE SENATE:

McCallum, Chairman

Hammond

Van Valkenburg

57

HB 0558/04

HOUSE BILL NO. 558

INTRODUCED BY D. BROWN, KEYSER

A BILL FOR AN ACT ENTITLED: "AN ACT ~~TO PROVIDE--THAT--THE RESTRICTIONS--IMPOSED-ON~~ REVISE THE COMPENSATION ~~OF-A-DEPUTY SHERIFF-OR-AN-UNDERSHERIFF-DO-NOT-APPLY-TO-ANY--BENEFITS--OR ANY--PAYMENTS--FOR-HOURS-WORKED-OVERTIME~~ PROVISIONS RELATING TO DEPUTY SHERIFFS AND UNDERSHERIFFS; AMENDING ~~SECTION~~ SECTIONS 7-4-2505 AND 39-3-406, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-4-2505, MCA, is amended to read:

"7-4-2505. Amount of compensation for deputies and assistants. (1) ~~Except--as--provided--in--subsection--(2),~~ Subject to ~~subsections~~ SUBSECTION (2) ~~and--(3),~~ the boards of county commissioners in the several counties in the state shall have the power to fix the compensation allowed any deputy or assistant of the following officers:

~~(a)--sheriff;~~

~~(b)~~(A) clerk and recorder;

~~(c)~~(B) clerk of the district court;

~~(d)~~(C) treasurer;

~~(e)~~(D) assessor;

~~(f)~~(E) county attorney;

~~(g)~~(F) auditor.

(2) (a) ~~Except-as-provided-in-subsection--(2)(b),--the~~ THE salary of ~~no~~ a deputy or an assistant LISTED IN SUBSECTION (1) ~~shall~~ may not be more than 90% of the salary of the officer under whom such deputy or assistant is serving.

~~(b)--In--fixing--the--compensation--allowed--the undersheriff,--the--board--must--fix--the-same-at-95%-of-the salary-of-the--officers--under--whom--such--undersheriff--is serving.--In--fixing--the--compensation--allowed--the-deputy sheriffs,-the-board-must-fix-the-same-at-90%-of--the--salary of--the--officer--under-whom-such-deputy-sheriff-is-serving, except-in-counties-of-the-first,-second,-or-third-class,--in which--the--board--must-fix-the-same-at-not-less-than-75%-or more-than-90%-of-the-salary-of-the-officer-under--whom--such deputy-sheriff-is-serving.~~

~~(c)~~(B) Where any deputy or assistant is employed for a period of less than 1 year, the compensation of such deputy or assistant shall be for the time so employed, provided the rate of such compensation shall not be in excess of the rates now provided by law for similar deputies and assistants except as provided herein.

~~(d)~~(C) Deputy assessors' salaries shall be the same as paid the deputy clerk and recorder.

~~(3)--For--purposes--of--subsection--(2)(b),--the---term "compensation"--means-the-base-rate-of-pay-and-does-not--mean~~

HB 558
REFERENCE BILL: Includes Free Conference Committee Report
Dated 4-21-81

~~any benefits or any payments for hours worked overtime."~~

~~NEW SECTION. SECTION 2. COMPENSATION OF UNDERSHERIFF AND DEPUTY SHERIFF. (1) THE SHERIFF SHALL FIX THE COMPENSATION OF THE UNDERSHERIFF AT 95% OF THE SALARY OF THAT SHERIFF.~~

~~(2) (A) THE SHERIFF SHALL FIX THE COMPENSATION OF THE DEPUTY SHERIFF BASED UPON A PERCENTAGE OF THE SALARY OF THAT SHERIFF ACCORDING TO THE FOLLOWING SCHEDULE:~~

~~IN COUNTIES WITH POPULATION OF:~~

~~BELOW 15,000 ..... 65% TO 90%~~

~~15,000 TO 29,999 ..... 70% TO 90%~~

~~30,000 TO 64,999 ..... 75% TO 90%~~

~~65,000 AND OVER ..... 80% TO 90%~~

~~(B) THE SHERIFF SHALL ADJUST THE COMPENSATION OF THE DEPUTY SHERIFF WITHIN THE RANGE PRESCRIBED IN SUBSECTION (A) ACCORDING TO A RANK STRUCTURE IN THE DEPARTMENT.~~

~~(3) FOR PURPOSES OF THIS SECTION, THE TERM "COMPENSATION" MEANS BASE RATE OF PAY PLUS LONGEVITY PAYMENTS OR PAYMENTS FOR HOURS WORKED OVERTIME.~~

~~NEW SECTION. SECTION 3. OPTION TO ESTABLISH WORKPERIOD IN LIEU OF WORKWEEK. (1) A SHERIFF'S DEPARTMENT MAY ESTABLISH A WORKPERIOD OTHER THAN THE WORKWEEK PROVIDED IN 39-3-405 OF 7-32-2111 FOR DETERMINING WHEN AN EMPLOYEE MUST MAY BE PAID OVERTIME.~~

~~(2) THE AGGREGATE OF ALL WORKPERIODS IN A YEAR, WHEN EXPRESSED IN HOURS, MAY NOT EXCEED 2,080 HOURS.~~

~~NEW SECTION. SECTION 4. COMPENSATION FOR HOURS WORKED OVERTIME. ANY UNDERSHERIFF OR DEPUTY SHERIFF WHO WORKS IN EXCESS OF HIS REGULARLY SCHEDULED WORKPERIOD MUST BE COMPENSATED FOR THE HOURS WORKED IN EXCESS OF THE WORKPERIOD AT A RATE OF NOT LESS THAN 1 1/2 TIMES THE HOURLY RATE AT~~

DEPUTY SHERIFF BASED UPON A PERCENTAGE OF THE SALARY OF THAT SHERIFF ACCORDING TO THE FOLLOWING SCHEDULE:

IN COUNTIES WITH POPULATION OF:

BELOW 15,000 ..... 65% TO 90%

15,000 TO 29,999 ..... 70% TO 90%

30,000 TO 74,999 ..... 75% TO 90%

75,000 AND OVER ..... 80% TO 90%

(B) THE SHERIFF SHALL ADJUST THE COMPENSATION OF THE DEPUTY SHERIFF WITHIN THE RANGE PRESCRIBED IN SUBSECTION (A) ACCORDING TO A RANK STRUCTURE IN THE DEPARTMENT.

(3) FOR PURPOSES OF THIS SECTION, THE TERM "COMPENSATION" MEANS BASE RATE OF PAY PLUS LONGEVITY PAYMENTS OR PAYMENTS FOR HOURS WORKED OVERTIME.

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~~WHICH HE IS EMPLOYED.~~ THE BOARD OF COUNTY COMMISSIONERS MAY BY RESOLUTION ESTABLISH THAT ANY UNDERSHERIFF OR DEPUTY SHERIFF WHO WORKS IN EXCESS OF HIS REGULARLY SCHEDULED WORK PERIOD WILL BE COMPENSATED FOR THE HOURS WORKED IN EXCESS OF THE WORK PERIOD AT A RATE TO BE DETERMINED BY THAT BOARD OF COUNTY COMMISSIONERS.

NEW SECTION. SECTION 5. LONGEVITY PAYMENTS. BEGINNING ON THE DATE OF HIS FIRST ANNIVERSARY OF EMPLOYMENT WITH THE DEPARTMENT AND ADJUSTED ANNUALLY, A DEPUTY SHERIFF OR UNDERSHERIFF IS ENTITLED TO RECEIVE A LONGEVITY PAYMENT AMOUNTING TO 1% OF ~~HIS~~ THE MINIMUM BASE ANNUAL SALARY FOR EACH YEAR OF SERVICE WITH THE DEPARTMENT. THIS PAYMENT SHALL BE MADE IN EQUAL MONTHLY INSTALLMENTS.

SECTION 6. SECTION 39-3-406, MCA, IS AMENDED TO READ:

"39-3-406. Exclusions. (1) The provisions of 39-3-404 and 39-3-405 shall not apply with respect to:

(a) students participating in a distributive education program established under the auspices of an accredited educational agency;

(b) persons employed in private homes whose duties consist of menial chores such as baby sitting, mowing lawns, cleaning sidewalks;

(c) persons employed directly by the head of a household to care for children dependent upon the head of the household;

(d) immediate members of the family of an employer or persons dependent upon an employer for half or more of their support in the customary sense of being a dependent;

(e) any persons not regular employees thereof who voluntarily offer their services to a nonprofit organization on a fully or partially reimbursed basis;

(f) handicapped workers engaged in work which is incidental to training or evaluation programs or whose earning capacity is so severely impaired that they are unable to engage in competitive employment;

(g) apprentices or learners, who may be exempted by the commissioner for a period not to exceed 30 days of their employment;

(h) learners under the age of 18 who are employed as farm workers, provided that such exclusion shall not exceed a period of 180 days from their initial date of employment and further provided that during this exclusion period wages paid such learners may not be less than 50% of the minimum wage rate established in this part;

(i) retired or semiretired persons performing part-time incidental work as a condition of their residence on a farm or ranch;

(j) any individual employed in a bona fide executive, administrative, or professional capacity as these terms are defined and delimited by regulations of the commissioner;

(k) any individual employed by the United States of America.

(2) The provisions of 39-3-405 do not apply to:

(a) an employee with respect to whom the United States Secretary of Transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of 49 U.S.C. 304;

(b) an employee of an employer subject to the provisions of part I of the Interstate Commerce Act;

(c) an individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state;

(d) a salesman, partsman, or mechanic paid on a commission or contract basis and primarily engaged in selling or servicing automobiles, trucks, mobile homes, recreational vehicles, or farm implements if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles or implements to ultimate purchasers;

(e) a salesman primarily engaged in selling trailers, boats, or aircraft if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling trailers, boats, or aircraft to ultimate purchasers;

(f) an employee employed as a driver or driver's helper making local deliveries who is compensated for such

employment on the basis of trip rates, or other delivery payment plan, if the commissioner finds that such plan has the general purpose and effect of reducing hours worked by such employees to or below the maximum workweek applicable to them under 39-3-405;

(g) an employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways not owned or operated for profit and not operated on a sharecrop basis and which are used exclusively for supply and storing of water for agricultural purposes;

(h) an employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee is:

(i) primarily employed during his workweek in agriculture by such farmer; and

(ii) paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by 39-3-404;

(i) an employee of an establishment commonly recognized as a country elevator, including an establishment which sells products and services used in the operation of a

6

farm, if no more than five employees are employed by the establishment;

(j) a driver employed by an employer engaged in the business of operating taxicabs;

(k) an employee who is employed with his spouse by a nonprofit educational institution to serve as the parents of children who are orphans or one of whose natural parents is deceased or who are enrolled in such institution and reside in residential facilities of the institution so long as the children are in residence at the institution and so long as such employee and his spouse reside in such facilities and receive, without cost, board and lodging from the institution and are together compensated, on a cash basis, at an annual rate of not less than $10,000; ~~or~~

(l) an employee employed in planting or tending trees; cruising, surveying, or felling timber; or transporting logs or other forestry products to a mill, processing plant, railroad, or other transportation terminal if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight~~.~~; or

(m) an employee of a sheriff's department who is working under an established workperiod in lieu of a workweek pursuant to [section 3]."

NEW SECTION. SECTION 7. CONSTRUCTION IN EVENT OF CONFLICT. IF THERE IS A CONFLICT BETWEEN SECTIONS 2 THROUGH

5 4 5 AND ANY OTHER LAW, SECTIONS 2 THROUGH 5 4 5 GOVERN WITH RESPECT TO UNDERSHERIFFS AND DEPUTY SHERIFFS.

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